

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 539 OF 2019

BRIGIDA FERNANDES.,

... Petitioner

Versus

GOA COASTAL ZONE MANAGEMENT
AUTHORITY, THR. ITS MEMEBER
SECRETARY AND 8 ORS.

... Respondents

Mr. Parag S. Rao, Advocate for the Petitioner.

Mr. Pravin Faldessai, Addl. Government Advocate for Respondent
Nos.1 and 3.

Ms. R. Pereira, Advocate for Respondent No.2.

Mr. A. D. Bhobe and Ms. V. Shetye, Advocates for Respondent
Nos.4 to 9.

***Coram:- S. C. GUPTE &
NUTAN D. SARDESSAI, JJ.***

Date:- 1st July 2019

P.C.

Heard learned counsel for the Petitioner and for the
Respondents.

2. This petition challenges, firstly, the so called order of

17th May, 2019. The order is merely a show cause notice and pending consideration directs stoppage of the work. The notice is on the basis of directions issued by the Goa Coastal Zone Management Authority (GCZMA) to the Deputy Collector and SDO at Canacona, Goa, to take immediate action in respect of an illegal construction carried out in violation of CRZ Notification of 2011. The notice indicates that the Mamlatdar of Canacona Taluka had submitted a checklist suggesting that the Petitioner had reconstructed a residential house (RCC structure) and extended verandah for residential purposes and that this amounted to violation of the Notification of 2011. Measurements of the extended verandah with steps and the trespass arising out of the work executed at site, have been reflected in the show cause notice. We are not inclined to interfere with the notice at this stage. The notice, after all, simply requires the Petitioner to show cause. It says that the matter would be heard and determined after hearing the Petitioner. There is no need to interfere, therefore, at the stage of the notice.

3. Learned counsel for the Petitioner submits that the notice has been issued without jurisdiction. If that is so, the Petitioner will have to show cause on that basis. It is not that in every show cause notice issued without jurisdiction, the writ court

should interfere.

4. The Petitioner, secondly, seeks a direction against Respondent Nos.1 and 2 to initiate action against Respondent Nos.4 to 9 against whom a complaint has been filed by the Petitioner for violation of the CRZ Notification. It is apparent from the record of the case that the Petitioner's complaint for CRZ violation by Respondent Nos.4 to 9 has been referred to the Deputy Collector and SDO for site inspection by the Chairman of the District Level Committee. A report in this behalf is presently under preparation by the Deputy Collector. This prayer of the Petitioner may, accordingly, be conveniently disposed of by directing the Deputy Collector to submit the report called for in a time bound manner and the parties to follow up the same in accordance with law.

5. Accordingly, the following order is passed :

- (i) So far as prayer clause (B) is concerned, the Deputy Collector and SDO is directed to submit the report called for by the District Level Committee within a period of four weeks from today;
- (ii) The Committee shall take appropriate steps based on such report in accordance with law;

(iii) Prayer (A) of the petition does not merit consideration and is rejected;

(iv) The Petitioner will have to show cause before the Deputy Collector and SDO who will then take a decision in accordance with law;

(v) Needless to add, the Petitioner will be entitled to raise the issue of jurisdiction before the Deputy Collector and SDO in the inquiry to be held in pursuance of the notice cum stop work order which is the subject matter of the present petition;

(vi) The petition is disposed of in the above terms.

NUTAN D. SARDESSAI, J.

S. C. GUPTE, J.

at*